Public Works (1906) Department.

G.O., No. 712 J

DATED 28-6-1906.

5-7-06.

[Despatch Abstract.]

O.S. No: 111 of 1905 on the file of the District Munsif of Periyakulam, Madura Dt.

An appeal against the decree in 1 sanctioned with remarks.

120/5.

P. W. 35.
300—19-6-06

Indexed 5/7/06

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
758	[illegible]	23.8.05					

FURTHER PAPERS.

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IRRIGATION.

Government of Madras.

PUBLIC WORKS DEPARTMENT.

Recd.	1906.	*Enclosures*
Reqd.		*Spare copies*

G.O., No. 712 I., 28th June 1906.

O.S. No. 111 of 1905 on the file of the District Munsif of Periyakulam, Madura District

An appeal against the decree in —, sanctioned with remarks.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Irrigation.

Read—the following papers :—

I

G.O., No. 758 I., dated 23rd August 1905.

Abstract.—The defence of O.S. No. 111 of 1905 on the file of the District Munsif, Periyakulam, Madura district, regarding a water dispute, at public expense, sanctioned.

II

Reference from the Board of Revenue (Land Revenue), A. No. 416, dated 22nd June 1906.

Read—the following paper :—

Letter—from M. Young, Esq., Acting Collector of Madura.
To—the Secretary to the Commissioners of Land Revenue, Madras.
Dated—the 10th June 1906.
No.—R. on C. 699/Genl.

Referring to G.O., No. 758 I., dated 23rd August 1905, on Board's Reference A. No. 376, dated 1st August 1905, I have the honour to report that the District Munsif of Periyakulam has decided O.S. No. 111 of 1905 in favour of the plaintiffs and has ordered that Government should pay the costs of the plaintiffs in the suit. Copies of the District Munsif's judgment and decree in the suit are herewith enclosed for the Board's reference.

2. The local Government Pleader, who was consulted, is of opinion that an appeal should be filed and I agree with him. An extract from his letter No. 110/S., dated 3rd June 1906, explaining his reasons, is enclosed. I therefore request that the Board will be pleased to approve of the enclosed draft memorandum of the grounds of appeal prepared by the Government Pleader.

3. The time for preferring an appeal would have expired in the ordinary course on 16th May 1906, but as the District Court had before that date been closed for the midsummer vacation, the appeal has to be presented on 2nd July 1906 on which date the District Court reopens. The usual statement is appended—

Date of judgment and decree.	Date of application for copies.	Date on which copies were ready for delivery to the Vakil.	Date of receipt of the same by the Collector.	Date of Collector's letter.	Date on which time allowed for appeal expires.	Explanation for delay where a clear fortnight is not allowed to the Board for the consideration of the case.
12th February 1906.	14th February 1906.	18th April 1906.	21st April 1906.	10th June 1906.	About 15th May 1906.	Copies of all exhibits and documents were received only on 26th May 1906 and the Government Pleader's letter regarding the filing of an appeal was received in my office on 4th June 1906. As the courts are closed the appeal may be filed on 2nd July 1906 when the District Court reopens.

Reference—A. No. 416, *dated* 22*nd June* 1906.

Submitted for the orders of Government in the Public Works Department with reference to G.O., No. 758 I., dated 23rd August 1905.

2. The District Munsif's finding goes to the very root of the right of Government to regulate water supply. He seems to lay down that a ryot whose land is situated nearer the sources of supply is *ipso facto* entitled to priority of supply over other ryots whose land is more remote. There is apparently no authority for any such dictum. There *are* cases in which one holder of wet land has a prior claim, but generally speaking all ryots holding land under one source have equal rights; and when, as in this case, the supply is insufficient for all, it is the prerogative of Government, sanctioned by the immemorial custom of the country, to regulate the supply to the best advantage of all concerned.

3. The District Munsif is in error in treating the sluice as a means of securing plaintiffs in the enjoyment of a separate water-supply to an ayacut separate from the rest of the channel ayacut. The sluice is only a means of regulating supply. It was constructed in order to obviate the old system of putting up a bund and supplying water by turns. It took the place of that system, and its existence is itself evidence of the facts (1) that the plaintiffs have only a right to share the channel water with those holding under the tank; and (2) that the Government always had, and still has the right to regulate supply to the plaint land.

4. For the reasons mentioned above, the Board agrees with the Collector in considering that an appeal should be preferred and recommends that the draft memorandum submitted by the Collector may be approved.

5. As the appeal has to be presented on 2nd July 1906, the Board requests that orders of Government may be communicated direct to the Collector.

A. R. Loftus-Tottenham,
Acting Secretary.

To the Secretary to Government, Public Works Department, with four enclosures.

Order—No. 712 I., dated 28th June 1906.

Sanction is accorded to prefer an appeal against the judgment of the District Munsif of Periyakulam in O.S. No. 111 of 1905. The draft memorandum submitted by the Collector of Madura is approved. The result of the appeal should be reported in due course for the information of Government.

2. The following (urgent) telegram will be sent to the Collector of Madura:—

"Your No. 699 Gl. of 1906, dated 10th June 1906, to Board (Land Revenue). Appeal sanctioned. Draft memorandum approved."

(True Extract.)

C. A. Smith,
Ag. Joint Secretary to Government,
Irrigation Branch.

To the Chief Engineer for Irrigation.
,, Superintending Engineer, VI Circle.
,, Collector of Madura, with enclosures returned.
,, Board of Revenue (Land Revenue).
,, Revenue Department.

Forwarded to the

(By order.)

Ag Deputy Registrar.

P.W.D., Irrigation.

C. No. 6859. From the Bd. of Rev. (L.R.) dated 22-6-06. No. A.416.

D.I.

Submitted that the draft order placed below may be forwarded to the Revenue Department for acceptance before issue.

22.6.06 TWSS 25/6/06. 25/6

P. W. D. IRRIGATION.
U. O. No. 267-D
Dated 25-6-1906

RD

REVENUE-C
0855

Secy

The draft may be accepted.

27/6/06

Accepted in Revenue.

26.6.06

Rev Reg 26.6.06

Final

Rev. UO 855C/06-1 26.6.06

PWD I UO

DS

The order may, it is subd, issue

26/6/06

E. S Form No. 1.

Very Urgent

PUBLIC WORKS DEPARTMENT,

IRRIGATION BRANCH.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

A

READ again the following

I G.O., No. 758 I dated 23rd August 1905.

Read also

From the Board of Revenue (L.R.) Ref. A. No. 416 d/ 22-6-06.

4P

ORDER. No 712 I O/28-6-06

Sanction is accorded to prefer an appeal against the Judgment of the -District Munsiff of Periakulam in -- O.S.No. 111 of 1905. The draft memo submitted by the Collector of Madura is approved. The result of the appeal should be reported in due course for the information of Government.

2. The following (urgent) telegram will be sent to the Collector of -- Madura.

"Your No.699 Gl. of 1906 dated 10th June 1906 to Board Land Revenue, "Appeal sanctioned. Draft memo approved"

Issue

26/6/06

Despd 28.6.06

To

The Chief Engineer for Irrgn.

" Supg. Engineer VI Circle. D 4/7/06.

" Collector of Madura with enclosures returned Despd (Regd) 30.6.06.

" Board of Rev. (L.R.) [redacted]

" Revenue Department.

23.6.06

25/6/06

DESPATCHED 7 JUL 1906

588

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